

# SENATE BILL REPORT

## SB 5018

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As Reported by Senate Committee On:  
Agriculture, Water & Rural Economic Development, February 12, 2015

**Title:** An act relating to underground artificial storage and recovery projects.

**Brief Description:** Concerning underground artificial storage and recovery projects.

**Sponsors:** Senators Honeyford and Ericksen.

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 1/20/15, 2/12/15 [DPS].

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5018 be substituted therefor, and the substitute bill do pass.

Signed by Senators Warnick, Chair; Dassel, Vice Chair; Hatfield, Ranking Minority Member; Hobbs and Honeyford.

**Staff:** Diane Smith (786-7410)

**Background:** Under the surface water code, reservoir includes natural underground formations where water is stored and used as part of an underground artificial storage and recovery project. The underground artificial storage and recovery project must meet standards for review and mitigation established by the Department of Ecology (Ecology) rule regarding the following factors: aquifer vulnerability and hydraulic continuity, potential impairment of existing water rights, geo-technical impacts and aquifer boundaries and characteristics, chemical compatibility of surface and ground waters, recharge and recovery treatment requirements, system operation water rights, and environmental impacts.

An underground artificial storage and recovery project is a project in which water is stored by injection, surface spreading and infiltration, or other Ecology-approved method for the purpose of making subsequent use of the stored water. An underground artificial storage and recovery project does not refer to irrigation operational and seepage losses, water artificially stored due to irrigation district projects, reclaimed water, or artificially stored water that may be claimed when a groundwater subarea is established.

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Analysis of an underground artificial storage and recovery project and geological formation must be conducted through studies initiated by the applicant and reviewed by Ecology.

**Summary of Bill (Recommended Substitute):** An underground artificial storage and recovery project is deemed to comply with ground water quality standards if:

- there is a high likelihood the quantity of water stored is available for recovery;
- unrecovered water does not preclude future beneficial use of groundwater;
- the project is protective of aquatic resources; and
- the quality of the water in the project does not exceed 50 percent of the Department of Health's drinking water standard for maximum contaminant or residual disinfectant levels.

**EFFECT OF CHANGES MADE BY AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute):** Most references to the drinking water standards are removed. Four criteria are established that, if met, cause the project to be deemed to comply with groundwater standards. The Department of Health's drinking water standard does apply to the water at the point of injection, or at a different point that is agreed between Ecology and the applicant. The water quality at that point cannot exceed 50 percent of the drinking water quality standard for contaminants or residual disinfectants.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: The Ecology standard for safe drinking water is more difficult to satisfy than the Department of Health (DOH) standard. Underground artificial storage and recovery projects have great potential benefits. There are close to 100 projects in the country that average close to 50 percent less cost than other drinking water alternatives. This is an important part of the Yakima-integrated plan, approved by the Yakama Nation among others, that allows water to be parked and then used when needed. We need more than a black box from Ecology when it comes to anticipating and contracting to build a project. We need clarity. Pre-treating to meet groundwater standards before injection would remove Ecology's concerns. We must acknowledge the need to allow for exceptions.

CON: As written the bill allows injection of disinfection by-products. These can increase in concentration underground. Drinking water standards only apply to the quality of the water for human ingestion. DOH drinking water standards do not cover all potential contaminants. Ground water standards must also protect the health of the site-specific bioweb taking into consideration whether the underground water may also be in hydraulic continuity with surface water and all the biotic life therein. Using the statutory exception of overriding public interest, five projects have been approved. The antidegradation policy is the backstop

that protects more than human health. This bill is not needed since Ecology has been fairly lenient in approving these projects.

**Persons Testifying:** PRO: Senator Honeyford, prime sponsor; Clark Halvorson, DOH; Dave McClure, Klickitat County; Evan Sheffels, WA Farm Bureau; Tim Flynn, citizen.

CON: Bruce Wishart, Center for Environmental Law & Policy; Sierra Club.